

ECONOMIC DEVELOPMENT AUTHORITY[261]**Adopted and Filed**

Pursuant to the authority of 2011 Iowa Code Supplement section 15.106A and 2012 Iowa Acts, House File 2473, section 27, the Economic Development Authority hereby amends Chapter 68, “High Quality Jobs Program (HQJP),” Chapter 74, “Grow Iowa Values Financial Assistance Program,” Chapter 75, “Opportunities and Threats Program,” Chapter 165, “Allocation of Grow Iowa Values Fund,” Chapter 171, “Supplemental Credit or Points,” Chapter 172, “Environmental Law Compliance; Violations of Law,” Chapter 173, “Standard Definitions,” Chapter 174, “Wage, Benefit, and Investment Requirements,” Chapter 175, “Application Review and Approval Procedures,” Chapter 187, “Contracting,” Chapter 188, “Contract Compliance and Job Counting,” and Chapter 189, “Annual Reporting,” Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXV, No. 4, page 294, on August 22, 2012, as **ARC 0293C**.

The amendments herein do the following: (1) update existing rules to reflect the repeal of the Grow Iowa Values Fund and Financial Assistance Program effective as of June 30, 2012; (2) implement new program features and requirements for the High Quality Jobs Program, including the provision of project completion assistance, made necessary by the enactment of 2012 Iowa Acts, House File 2473; (3) make conforming changes to existing rules regarding standard application review, wage and benefits requirements, and contracting procedures to reflect other changes enacted in 2012 Iowa Acts, House File 2473; (4) make additional clarifications and conforming changes to support the more efficient administration of the Authority’s programs; and (5) update references from the Department of Economic Development to the Economic Development Authority.

Public comments were received from the Iowa Department of Revenue. In response to these comments, the following changes from the Notice have been made: Paragraph 68.4(1)“b” and subrule 68.4(2) in Item 7 herein have been further amended to reflect statutory changes made in 2009 Iowa Acts, chapter 82, section 4, which transferred issuance of certain sales tax refunds from the Department of Economic Development to the Department of Revenue. The amendments to paragraph 68.4(1)“b” and subrule 68.4(2) update the rules to reflect that the issuance was transferred to the Department of Revenue. Paragraph 68.4(1)“b” now reads as follows:

“b. Racks, shelving, and conveyor equipment. If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may be entitled to a refund of sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department of revenue for a refund. The application must include the refund amount being requested and documentation such as invoices or contracts which substantiate the requested amount. The department of revenue will validate the refund amount and issue the refund.

“The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the department of revenue to businesses approved for high quality jobs program and enterprise zone program benefits shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business’s application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the approved business’s application shall be considered in the succeeding fiscal year.”

Subrule 68.4(2) now reads as follows:

“68.4(2) Corporate tax credit for certain sales taxes paid by third-party developer. Pursuant to Iowa Code section 15.331C, the approved business may claim a corporate tax credit up to an amount equal to the sales and use taxes paid by a third-party developer under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating

to the construction or equipping of a facility of the approved business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

“Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An approved business may elect to receive a refund of all or a portion of an unused tax credit.

“*a. Filing a claim.* To receive the tax credit, the approved business shall file a claim with the department of revenue as follows:

“(1) The third-party developer shall state under oath, on forms provided by the department of revenue, the amount of sales and use taxes paid and submit the forms to the approved business.

“(2) The approved business shall, not more than 12 months following project completion, submit the completed forms to the department of revenue.

“(3) The department of revenue shall issue a tax credit certificate in an amount equal to all or a portion of the sales and use taxes paid by a third-party developer under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business.

“(4) The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate issued by the department of revenue is attached to the approved business’s tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business’s name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue.

“*b. Racks, shelving, and conveyor equipment.* If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may claim a corporate tax credit up to the amount of sales and use taxes paid by a third-party developer and attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department of revenue for a tax credit. The application must include the tax credit amount being requested and documentation from the third-party developer such as invoices or contracts which substantiate the requested amount. The department of revenue will confirm the tax credit amount and issue a tax credit certificate in an amount equal to all or a portion of the sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate is attached to the approved business’s tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business’s name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An approved business may elect to receive a refund of all or a portion of an unused tax credit.

“The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment approved by the authority for businesses under the high quality jobs program and enterprise zone program shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business’s application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the approved business’s application shall be considered in the succeeding fiscal year.”

Also, where appropriate, citations to the 2011 Iowa Code Supplement and to 2012 Iowa Acts as published in the Notice have been converted to citations of the soon-to-be-published 2013 Code of Iowa, and references to “department” have been changed to “authority” in subrules 68.1(1) and 187.2(3).

The Economic Development Authority Board adopted these amendments on October 19, 2012, at the Board’s monthly meeting.

After analysis and review of this rule making, the Authority finds that a positive impact on jobs will result. The amendments to the Authority’s rules include an expansion of the High Quality Jobs Program that adds loan-based assistance to the program. Adding such assistance to an existing program

not only makes the Authority's operations more efficient, but it allows the Authority to tailor assistance individually to meet the needs of each business applying to the program.

Moreover, the addition of distress criteria allows businesses in Iowa's high-unemployment counties to access higher levels of program benefits. The amendments to the High Quality Jobs Program rules achieve this by making more jobs eligible for incentives under the program. Because the Authority awards tax incentives on a per-job basis according to the number of jobs that meet the program's minimum wage thresholds, allowing a business to trigger incentives for wages at the 100 percent threshold instead of the 120 percent threshold results in more incented jobs for a given project and consequently a greater total incentive. A greater total incentive makes it more likely that a business will locate or expand in Iowa.

These amendments are intended to implement 2012 Iowa Acts, House File 2473, Iowa Code chapter 15 as amended by 2011 Iowa Acts, chapter 118, and Iowa Code chapter 15G as amended by 2011 Iowa Acts, chapter 133.

These amendments will become effective December 19, 2012, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 68, 74, 75, 165, 171 to 175, 187 to 189] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 0293C**, IAB 8/22/12.

[Filed 10/22/12, effective 12/19/12]

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[For replacement pages for IAC, see IAC Supplement 11/14/12.]